



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/168402

PRELIMINARY RECITALS

Pursuant to a petition filed August 31, 2015, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 30, 2015, at Kewaunee, Wisconsin.

The issue for determination is whether the HMO correctly denied the petitioner's prior authorization request for skin removal surgery.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Dr. Donna Davidhoff, MD

Division of Health Care Access and Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Kewaunee County.
2. The petitioner submitted a prior authorization to United Healthcare, the HMO providing the petitioner's BadgerCare (BC) coverage, for skin removal surgery.

3. On August 13, 2015 United Healthcare sent the petitioner a notice stating that they denied her request for removal of the extra skin at the waist and arms because it was not medically necessary.
4. On September 2, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
5. The petitioner has lost over 100 lb. through diet and exercise. She is 5 feet tall, and weighs 185 pounds. Her Body Mass Index (BMI) is 36.13.

DISCUSSION

Under the discretion allowed by Wis. Stat., §49.45(9), the Department now requires MA recipients to participate in HMOs. Wis. Adm. Code, §DHS 104.05(2)(a). BadgerCare (BC) recipients are included as MA recipients. MA recipients enrolled in HMOs must receive medical services from the HMOs' providers, except for referrals or emergencies. §DHS 104.05(3).

The criteria for approval by a managed care program contracted with the Department are the same as the general MA criteria. See Adm. Code, §DHS 104.05(3), which states that HMO enrollees shall obtain services "paid for by MA" from the HMO's providers. The department must contract with the HMO concerning the specifics of the plan and coverage. Adm. Code, §DHS 104.05(1).

If the enrollee disagrees with any aspect of service delivery provided or arranged by the HMO, the recipient may file a grievance with the department or appeal to the Division of Hearings and Appeals.

The HMO may only provide for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the HMO in advance of receiving the service. Finally, some services and equipment are never covered by the MA program. The HMO and Department determined that the medical documentation submitted does not establish that the requested excision of skin is medically necessary under MA rules; and therefore, the HMO was therefore unable to approve the requested service.

The requested procedure is the surgical removal of excessive skin folds, which usually occurs after rapid or substantial weight loss. This procedure is only covered when the Department's written Prior Authorization Guidelines Manual's criteria for approval are met. See, Wis. Admin. Code §§ DHS 107.02(2)(a) & (b).

The Department's approval criteria for a panniculectomy surgery is that the panniculus hangs below the level of the pubis **and either** the medical record documents that the panniculus causes chronic intertrigo that is refractory to at least three months of appropriate treatment or consistently recurs over three months while receiving appropriate medical therapy **or** there is a presence of a significant functional deficit that prohibits or profoundly impairs the ability to perform activities of daily living due to a significant physical deformity or disfigurement resulting from the excess skin folds. An example would be deficits prohibiting a person from showering or toileting. The Department's approval criteria for a lipectomy surgery is very similar to the approval criteria for a panniculectomy surgery. The only difference is that for a lipectomy surgery there is no requirement that the panniculus hangs below the level of the pubis. Otherwise, the criteria are identical.

There is no evidence of chronic intertrigo or skin infection. Even if the petitioner had a skin infection, she would have had to have three months of ineffective treatment. That has not happened as there has been no issue with skin breakdown or infection. Further there is no evidence that the petitioner has any functional deficit related to her excess skin.

The petitioner believes that the excess skin puts additional stress on her back. She goes to a pain management clinic to help manage her back pain. The petitioner thought that losing over 100 lb. would help her back pain. She testified that unfortunately she still has back pain following her weight loss. She now believes that removing excess weight by removing the excess skin will help her back pain. Regardless, of whether the skin removal would help her back pain, the requirement for the medical necessity under the MA program is listed above. Everyone including the petitioner agree that she does not meet those requirements. The petitioner argued that the approval criteria is ridiculous, however, my role is determine whether the HMO correctly denied the procedure using the approval criteria. Thus, I must conclude that the HMO and Department correctly denied coverage for this skin removal.

Despite the petitioner's weight loss, her BMI is 36.13. This puts her well into the obese category. Any BMI over 30 is considered obese. If the petitioner would like to put less weight on her back, she may continue her weight loss journey. At this point she does not meet the MA criteria for skin reduction surgery.

CONCLUSIONS OF LAW

The HMO correctly denied the petitioner's prior authorization request for skin removal surgery after weight loss.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

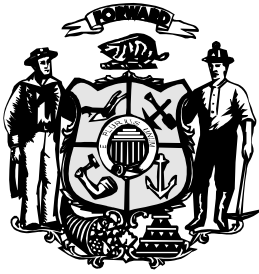
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

...

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 2nd day of October, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 2, 2015.

Division of Health Care Access and Accountability